

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN JOE MCKENNEY**, on February 14, 2001 at 8:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Joe McKenney, Chairman (R)
Rep. Rod Bitney, Vice Chairman (R)
Rep. Gary Matthews, Vice Chairman (D)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Roy Brown (R)
Rep. Nancy Fritz (D)
Rep. Dave Gallik (D)
Rep. Kathleen Galvin-Halcro (D)
Rep. Dennis Himmelberger (R)
Rep. Carol C. Juneau (D)
Rep. Jim Keane (D)
Rep. Rick Laible (R)
Rep. Bob Lawson (R)
Rep. John Musgrove (D)
Rep. William Price (R)
Rep. Allen Rome (R)
Rep. Donald Steinbeisser (R)
Rep. Brett Tramelli (D)

Members Excused: Rep. James Whitaker (R)

Members Absent: None.

Staff Present: Gordon Higgins, Legislative Branch
Jane Nofsinger, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB519, HB530, HB537, HB551,
HB542, 2/9/2001
Executive Action: HB551, HB542

HEARING ON HB537

Sponsor: REP. PAUL SLITER, HD76, KALISPELL

Proponents: Gregg Ellingson, Flathead Farm Mutual Insurance Co.
Glenn Lambert, Cascade Farmers Mutual
Roger McGlenn, IIAM
Jan Van Riper, State Auditor's Office

Opponents: None

Opening Statement by Sponsor:

REP. PAUL SLITER, HD537, KALISPELL, said this bill gives farm mutual insurers the ability to change their status to that of a state mutual insurer by amending their articles of corporation, and provides an immediate effective date.

Proponents' Testimony:

Mr. Ellingson presented written testimony. **EXHIBIT** (buh37a01)

Mr. Lambert presented written testimony. **EXHIBIT** (buh37a02)

Mr. McGlenn said he was in support of the bill.

Ms. Van Riper said the State Auditor's Office was in support of the bill, but had some concerns with solvency issues. She noted these were typically Montana-based companies and the State Auditor wanted to support them.

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. PRICE asked if the amendment would bring the companies into solvency. Ms. Van Riper replied it would not and they were looking at additional reserves.

REP. LAIBLE asked Mr. McGlenn how reinsurance works. Mr. McGlenn said the company writes coverage and then reinsures their risk with another company. REP. LAIBLE then asked if there was a certain percentage. Mr. Ellingson replied that typically on a \$400,000 house, the company would keep \$60,000 and reinsure the rest. He noted that dog bites are 100% reinsured and that 42% of the losses on homeowner policies are due to dog bites.

REP. JUNEAU asked **Ms. Van Riper** if the customers know their insurance policies are being re-sold to someone else. **Ms. Van Riper** said they are not usually aware of reinsurance. **Mr. McGlenn** said re-insurance can help keep costs down by shifting the risk to larger companies. **REP. JUNEAU** asked why customers wouldn't just go to the larger companies to begin with. **Mr. McGlenn** said some of the reinsurance companies sell only to other companies, not to individuals.

Closing by Sponsor:

REP. SLITER said the bill provides the ability for farm mutual companies to go into more markets and spread risks over a greater area. He said this bill will give them the opportunity to help more people.

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HEARING ON HB530

Sponsor: **REP. DAVE FASTEN, HD99, BROCKWAY**

Proponents: **Geoff Feiss, Montana Telecommunications Assn.**
Gerry Anderson, Mid-Rivers Telephone Cooperative, Inc.
Andy Forsythe, self

Opponents: **Mike Meloy, Helena attorney**
Al Smith, Montana Trial Lawyers Assn.

Opening Statement by Sponsor:

REP. DAVE FASTEN, HD99, BROCKWAY, said the act relates to the enforcement of laws prohibiting discrimination. The bill allows 20 days for a party to a complaint to respond to a written request for information. It also provides the right of substitution of an administrative hearings officer.

Proponents' Testimony:

Mr. Feiss told the committee this is an employment matter which is a clarification and improvement on existing law. He noted the party to the complaint would have 20 days to respond to a written request and would be able to get more information in a timely manner. The bill would also provide the option to disqualify a hearings examiner. Another provision of the bill would allow

parties to skip the hearing and go straight to court. He presented an amendment to the bill. **EXHIBIT(buh37a03)** He also presented his written statement. **EXHIBIT(buh37a04)**

Mr. Forsythe told the committee that his clients are uncomfortable that the same state bureau which said they did something wrong will be the ones to judge them. He explained, "It is only fair to let them ask for another hearing judge." He added this bill may help more people stay in the administrative process than go to the district court. He testified the administrative process is usually quicker, cheaper and better.

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Opponents' Testimony:

Mr. Meloy said he did not think this was a good bill. He added the bill permits parties to opt out of the human rights process that now exists and go to a jury. "I would like to be in front of a jury sometimes, and would choose that," he said. He noted that at times it was better to be in front of a hearings officer who understands the law. He said it was like that before the law was changed in 1997. He noted this bill completely undoes what the legislature did in 1997. He explained the changes were done to expedite the process and they have succeeded in that. He told that committee that if he filed a case today, it would take 1 ½ to 2 years to go to trial. If the case stayed with the commission, the hearing would be within three months and would be resolved within one year.

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Mr. Smith suggested the committee add a second hearing examiner if they want to speed up the process. He noted the way it is now is still cheaper and faster. He also said he did not see a long line of businesses here, like in 1997, saying there was a problem.

Informational Witness:

Jerry Keck, Department of Labor and Industry, said he was available for information and questions.

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Questions from Committee Members and Responses:

REP. GALVIN-HALCRO asked **Mr. Meloy** what would happen if the complaining party was not happy. **Mr. Meloy** said under this bill

the complaining party could go either to the district court and jury or to the hearings officer. He said the decision by the district court are binding. He noted the decision could be appealed and the case would wind up in the Montana Supreme Court either way, if it went to the commission or the court.

Closing by Sponsor:

REP. FASTEN said the bill does not restrict the process, it adds to it. He noted that Webb Brown, Montana Chamber of Commerce, also supported the bill, but could not be present today. He also pointed out, there was no jury if these cases went to district court, as one of the opponents stated earlier.

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HEARING ON HB551

Sponsor: REP. GARY FORRESTER, HD16, BILLINGS

Proponents: Steve Turkiewicz, Montana Auto Dealers Assn.
Brenda Nordlund, , MVD, Department of Justice

Opponents: None

Opening Statement by Sponsor:

REP. GARY FORRESTER, HD16, BILLINGS, said the bill was a result of conversations with motor vehicle dealers on a problem experienced across the state. He said the amount of bond required by auto dealers has not been changed in a number of years. He said the amount of the bond does not cover the cost of a vehicle any more.

Proponents' Testimony:

Mr. Turkiewicz said the bill raises the bond from \$25,000 to \$35,000 for new motor vehicle dealers, used motor vehicles dealers, new or used RV dealers, trailer dealers, and others. He said he would like to see the bond at \$100,000. He noted this is protection for consumers, especially those who might take their car in as a trade-in and the car is not paid off. He said the increased cost of the bond would be \$125-\$175 per year.

Ms. Nordlund said the \$35,000 bonds are a change for the good. She said most dealers are upstanding, however, her department has taken many calls about loans not being paid off "when a dealer

goes south." She said these cases are bank fraud and then the "feds" come in. She said the higher bond is not a panacea, but it balances the interest of the consumers and "Main Street."

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. GALLIK asked **REP. FORRESTER** if the bonding requirement was incremental and based on the number of vehicles sold. **MR.**

FORRESTER said it was not.

Closing by Sponsor:

REP. FORRESTER said the cost of this bond increase is not great but it adds greatly to consumer protection.

HEARING ON HB519

Sponsor: **REP. GARY FORRESTER, HD16, BILLINGS**

Proponents: Rhonda Carpenter, Montana Coin Machine Operators Assn.
Gene Huntington, Gaming Control Division
Rich Miller, Gaming Control Division

Opponents: None

Opening Statement by Sponsor:

REP. GARY FORRESTER, HD16, BILLINGS, called this a "fairness bill." The bill revises the eligibility for the video gambling machine tax credit by extending the deadline for one year for a gambling machine permit and the deadline for converting a video gambling machine to the Department of Justice's automated accounting and reporting system.

Proponents' Testimony:

Ms. Carpenter said this bill is about the concept of dial-up reporting of video gambling machines. She explained this reporting had been done for years by hand, but HB109 in 1999, applied tax credits to video machine operators who hooked up to the dial-up system. Conversion to this type of reporting would average \$650 per machine and the tax credit would be \$250. She said Montana was the first state to take an existing machine and hook it up. The first units for this conversion were not acceptable and the boards are not ready yet. Since the tax

credits in the earlier bill had a deadline of 12-31-00, and that date has passed , this bill will extend the deadline to 12-31-03. She noted it will take time for the conversion once the boards are ready and she said it was no fault to the owners the tax credit had expired. She explained owners had signed up months ago and that out of the 9300 machines which were eligible, 6400 had been signed up and in by the deadline. She said there would be an amendment coming to correct a date.

Mr. Huntington said he concurred with **Ms. Carpenter's** testimony. He also offered an amendment. **EXHIBIT (buh37a05)** He noted the delays in getting the reporting boards was in getting the computer language to work with the many different kinds of equipment.

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Mr. Miller agreed that a retrofit on most machines today would run \$650 and without this bill the owner would not be eligible for the \$250 tax credit because the deadline has passed. He explained even if the process was started today, it would take a year to complete.

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. GALLIK asked **Mr. Huntington** what amount is collected. **Mr. Huntington** said 1/3 goes to the state, and 2/3 goes to the local government. **REP. GALLIK** asked **Mr. Huntington** if the owner has to pay when they sign up for the permit. **Mr. Huntington** said they pay on quarterly tax returns and the state notifies the owner when they qualify for the tax credit. **REP. GALLIK** what the 2900 machine owners who were not signed up, would have to do today to sign up. **Mr. Huntington** said they could have signed up at any time but that certain rural areas are not mandated to come into the system. He added they could volunteer to hook up.

REP. JUNEAU asked **Ms. Carpenter** if the owner could back out if it cost more than \$650 to develop the board. **Ms. Carpenter** said the cost averaged \$650, and ranged from \$495 - \$1000. She said at first Montana prohibited its machines from talking to a central computer. Now she said all those machines need to be designed to talk to one computer.

REP. MATTHEWS asked **Mr. Miller** if the majority of machines will be out of play and people will have to buy machines which hook up. **Mr. Miller** said yes, the industry is not getting the machine sales because they can not sell them if they can not put the

board in. He suggested Montana would see a large number of new machines brought in when the system is implemented.

REP. LAIBLE asked **Ms. Carpenter** if there wouldn't be a reduction in FTEs because of the dial-up system. **Ms. Carpenter** said no, if they had wanted to do this the quick way, they should have hired 24 people, but the legislature did not want to do that. She said the rules require the machines to be opened once a week at every location and there is a fine for pink tape. **REP. LAIBLE** asked **Ms. Carpenter** if an owner in a rural area could not afford this, could they still operate under the existing system. **Ms. Carpenter** said they could continue.

REP. GALLIK asked why 2900 machines have not been signed up. **Ms. Carpenter** said some machines only pay \$11 in tax and a couple of hundred in revenue. Also some tavern owners do not understand the dial-up and are afraid. **REP. GALLIK** then said, often the establishment owners are not the machine owners, and asked who gets the credit in that case. **Ms. Carpenter** said the credit goes with the machine, and the tax is paid first, then the revenue is split.

CHAIRMAN MCKENNEY asked **Ms. Carpenter** if this was set up as a voluntary system. She replied it was. He asked if it had required 70% of the machines be signed up, and she said it did. He then asked if the purpose of the boards and dial-up was so the state could have a reporting system. She replied it was.

Closing by Sponsor:

REP. FORRESTER said the bill was about extending tax credits, not about the dial-up system. He asked the committee to move the bill forward so the machine owners could have what was promised in HB109.

HEARING ON HB542

Sponsor: **REP. JOHN MUSGROVE, HD91, HAVRE**

Proponents: **Jan Van Riper, State Auditor's Office**
Roger McGlenn, Independent Insurance Agents Assn.
Montana Surplus Line Assn.

Opponents: None

Opening Statement by Sponsor:

REP. JOHN MUSGROVE, HD91, HAVRE, explained to the committee that he was bringing this bill at the request of the State Auditor's Office. The act transfers "the collection of the stamping fee for surplus lines to the Commissioner of Insurance, if the surplus insurance lines' organization is not performing its designated functions."

Proponents' Testimony:

Ms. Van Riper said the State Auditor's office did not really want the collection of the stamping fee transferred to their office, but if it was, they would collect the 1% fee. She noted that due to a projected deficit in funding, it is questionable if the advisory organization which is collecting the fee now will continue.

Mr. McGlenn said there is a separate section of the code for surplus lines of insurance. In 1989 legislation was drafted to establish the surplus advisory lines organization. He said 1% of the \$12 million in surplus lines in 1989 equaled \$120,000 in fees collected to run the organization for a year which actually came to \$105,000. However, 3 years ago, the surplus lines dropped to \$8 million and there was concern there would be a deficit. If this deficit could not be resolved, the stamping fee collection would have to be returned to the Commissioner of Insurance. He noted, if these funds go back to the state, it will require 1.8 FTE. He said his organization would like to continue, but if it could not, this legislation would be required.

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. PRICE asked if the fee could be increased to be commensurate with expenses. **Mr. McGlenn** said he had talked with people who felt the fee was similar to a tax, and that he had no desire to increase tax.

Closing by Sponsor:

In closing, **REP. MUSGROVE** presented a written exhibit which was a letter from Tony Martin, President of Montana Surplus Lines.

EXHIBIT (buh37a06)

EXECUTIVE ACTION ON HB551

Motion: REP. BOOKOUT-REINICKE moved that HB551 DO PASS.

Discussion:

Motion/Vote: REP. BOOKOUT-REINICKE moved that HB551 BE AMENDED.

Motion carried unanimously.

Motion/Vote: REP. BOOKOUT-REINICKE moved that HB551 DO PASS AS AMENDED. Motion carried 18-1 with Gallik voting no.

EXECUTIVE ACTION ON HB542

Motion: REP. MUSGROVE moved that HB542 DO PASS.

Discussion:

REP. LAWSON asked why we have to have this law and how it protects consumers. He said, "We spend \$80,000+ to do what?"

REP. PRICE said the money is for administrative purposes.

REP. LAWSON said, "I still ask, why do we have to have this, and how does it help?"

REP. PRICE replied that surplus lines are not licensed in the state and this is "rolled in" to administer them.

REP. GALLIK noted these are not guaranteed funds, and stamping them provides notification that they are not guaranteed.

Vote: Motion HB542 carried unanimously.

ADJOURNMENT

Adjournment: 11:20 A.M.

REP. JOE MCKENNEY, Chairman

JANE NOFSINGER, Secretary

JM/JN

EXHIBIT (buh37aad)